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Federal Communications Commission
Office of the Secretary

April 3, 1992

Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

EX PARTE

RE: **ET Docket No. 92-9**

Dear Ms. Searcy:

Pursuant to Section 1.1206(a)(1) of the Commission's Rules, enclosed are two copies of a written ex parte presentation made by the Utilities Telecommunications Council (UTC) to the Offices of Chairman Sikes and Commissioner Quello and to the Private Radio Bureau, the Office of Engineering and Technology, and the Office of Plans and Policy in connection with ET Docket No. 92-9.

Should any questions arise concerning this matter, please communicate directly with the undersigned.

Very truly yours,

A handwritten signature in black ink, which appears to read "Charles M. Meehan", is written over a horizontal line.

Charles M. Meehan
Executive Director

Enclosures

cc: Terry L. Haines
Brian F. Fontes
Ralph A. Haller
Thomas P. Stanley
Robert M. Pepper
Bruce A. Franca

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VIA MESSENGER

Terry L. Haines
Chief of Staff
Office of the Chairman
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, D.C. 20554

RE: ET Docket 92-9

Dear Terry:

Following up on our discussion of March 31 I am enclosing a copy of a letter which I have sent today to Tom Sugrue urging that his agency move forward in working with the Federal Communications Commission (FCC) to develop the necessary administrative arrangement to make the 1710-1850 MHz band available to Non-Federal private microwave users on a co-primary basis, should the FCC decide to reallocate the 1850-2200 MHz band to "emerging technology."

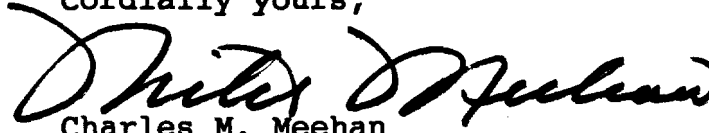
As I suggested during our March 31 meeting, I really believe that progress will only be made if we can get the Non-Federal private system users, NTIA and the FCC together, informally, to see how we can work out the necessary administrative arrangements and also to resolve NTIA's concerns over "releasing" spectrum to the FCC at this time.

I will pursue this matter with Tom. If you believe such an informal meeting among the users, NTIA Staff and the FCC Staff would be helpful, please lend me your support in this endeavor.

TERRY HAINES
APRIL 3, 1992
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I am making the necessary ex parte filing of this correspondence.

Cordially yours,

A handwritten signature in dark ink, appearing to read "Charles M. Meehan", written in a cursive style.

Charles M. Meehan
Executive Director

Enclosure

cc: Brian F. Fontes
Ralph A. Haller
Thomas P. Stanley
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Federal Communications Commission
Office of the Secretary

VIA MESSENGER

Thomas J. Sugrue
Acting Assistant Secretary
National Telecommunications and
Information Administration
Herbert C. Hoover Building
14th Street & Constitution Avenue, N.W.
Room 4898
Washington, D.C. 20230

RE: 1710-1850 MHz Band

Dear Tom:

As you may recall, we met last year at this time with you and Bill Gamble to discuss the possibility of the electric, gas and water utilities represented by the Utilities Telecommunications Council ("UTC") leasing spectrum from the Federal Government to meet their load management and related distribution automation requirements. That approach had been suggested in your February 1991 Spectrum Study. We are still interested in pursuing that proposal and we will get back in touch with you on that score after the dust has settled on some other pending matters, including the proposal in the Federal Communications Commission's (FCC) ET Docket No. 92-9 to reallocate portions of the 1850-2200 MHz ("2 GHz") band as a "Spectrum Reserve" for "emerging technology."

My purpose here is to urge that your agency take the initiative in working out an administrative agreement with the FCC to permit access by Non-Federal private microwave users to the Federal Government's 1710-1850 MHz band on a co-primary basis, should the FCC go ahead and reallocate the 2 GHz band to "emerging technology." Last week we provided you with a copy of UTC's March 31 Rule Making Petition ("Petition") to the FCC which asked the FCC to rechannelize, for private system use, the 4 and 6 GHz common carrier bands which the FCC had earmarked as replacement spectrum for displaced 2 GHz band users. In that same Petition, UTC also asked the FCC to take the necessary steps to reach an agreement with your agency concerning access to the 1710-1850 MHz band by Non-Federal private microwave users, since the FCC's proposed replacement spectrum is not adequate. The 1710-1850 MHz band has

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similar propagation characteristics to the 2 GHz band, and would provide much better reliability than the bands above 3 GHz which were proposed as replacement spectrum by the FCC. Also, it would be considerably less costly for existing 2 GHz band users to migrate to the 1710-1850 MHz band.

As UTC's Petition points out, your March 1992 report, entitled "Federal Spectrum Usage of the 1710-1850 and 2200-2290 MHz Bands," confirms, in many respects, UTC's position on the similarity of the 1710-1850 MHz band and the immediately adjacent 2 GHz band. In fact, most of the systems in the 1710-1850 MHz band are point-to-point microwave systems using substantially similar equipment to that used by private 2 GHz users. Also, your report shows that the 1710-1850 MHz band seems relatively lightly loaded and could accommodate a number of private point-to-point systems.

Incidentally, Tom, such shared use of the 1710-1850 MHz band was also raised in the Report accompanying H.R. 531. That Report stated that maintaining separate blocks of frequencies for fixed microwave services is inefficient and is particularly egregious in this case inasmuch as it is relatively easy to engineer fixed microwave networks, both Federal and Non-Federal, so as to avoid harmful interference.

Those at the FCC with whom we have discussed this issue believe that your agency may be reluctant to move forward with developing the necessary administrative arrangement with the FCC to make the 1710-1850 MHz band available to Non-Federal users, because your agency is concerned that it would not be given "credit" for such an arrangement if it were made prior to the enactment of H.R. 531 and S. 218.

Ironically, Tom, it would seem to me that this is the very kind of "mixed use" contemplated by both Bills. The criteria for such mixed use being given credit toward the total amount of spectrum to be transferred to the FCC are that:

(1) Such mixed use not constitute more than 50% of the 200 MHz your agency is to provide to the FCC for "emerging technology." Thus, initially, Non-Federal private microwave system access to the 1710-1850 MHz band could be confined to 100 MHz; and,

(2) There must be a preponderance of Non-Federal use to Federal use. In light of the number of private 2 GHz systems which could easily migrate to the 1710-1850 MHz band, it would seem that it would be a relatively easy matter to work out the appropriate ratios to comply with that provision of the legislation.

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What difference should it make if your agency made such "mixed use" arrangements, which are consistent with the provisions of the Bills, prior to their enactment, rather than wait until after enactment?

If you are interested in pursuing this sharing arrangement with compatible Non-Federal private microwave systems, we would like to get together with you at an early date to see how we could help in moving this matter forward. I should imagine you would be interested in such an arrangement with compatible systems since the thrust of your March 1992 Report on the 1710-1850 MHz band appears to be to demonstrate that the band is not a likely prospect for wholesale transfer to the FCC for "emerging technology,".

Perhaps it would be useful if your agency and the FCC approached the managements of the Senate and House Committees involved with H.R. 531 and S. 218 concerning such a "mixed use" arrangement in the context of providing replacement spectrum for users impacted by the FCC's "Spectrum Reserve" proceeding. We would be very happy to work with you in developing an appropriate approach to the managements of those Committees and working with you in presenting that approach.

If such a sharing arrangement seems feasible, you might also want to form a Government-Industry Advisory Committee to work out the details of the co-primary use of these 1710-1850 MHz band frequencies for point-to-point operations of both private and Federal users.

Keep in mind, Tom, nothing ventured, nothing gained. I see no harm in our getting together to see if we can work out this sort of arrangement which, I suggest, would be beneficial: (1) to your agency in providing access to the 1710-1850 MHz band by compatible users; (2) to the FCC, by securing more reliable replacement spectrum for existing and new private microwave users; and (3) clearly to private point-to-point microwave users since it would provide them with reliable spectrum. In fact, Tom, I would suggest that this is a "win-win" proposal.

Thomas J. Sugrue
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We will be in contact with your office in the near future to arrange for an appointment with you to discuss this proposal. We will also be making contact with the FCC Chairman's Office on this proposal.

~~Sincerely yours,~~

A handwritten signature in black ink, appearing to read "Mike Meehan", written over the crossed-out phrase "Sincerely yours,".

Charles M. Meehan
Executive Director

CMM/nrt

cc: UTC Officers
Chairman, UTC Fixed Communications Section
Chairman, UTC Microwave Committee